

NOTICE OF CLASS ACTION SETTLEMENT

Michael Del Toro et al. v. Abzena (San Diego) Inc. et al.
Superior Court of the State of California for the County of San Diego
Case No. 37-2023-00017443-CU-OE-CTL

This notice is to the following individuals in connection with a pending class action settlement:

“Class” or “Class Members” means all individuals currently or formerly employed by Abzena in California as hourly, non-exempt employees during the Class Period.

Read this notice carefully. Your legal rights could be affected whether you act or not.

The Superior Court of the State of California for the County of San Diego (the “Court”) has preliminarily approved this class and representative action lawsuit filed by Michael Del Toro and Troy Aylwin (“Class Representatives”) against Abzena (San Diego) Inc. (“Abzena”) for alleged wage and hour violations (the “Lawsuit”).

The Lawsuit is based on the following legal causes of action: (1) failure to pay all minimum wages, (2) failure to pay all overtime wages, (3) meal period violations, (4) rest period violations, (5) paid sick leave violations, (6) untimely payment of wages, (7) wage statement violations, (8) waiting time penalties, (9) unfair competition, (10) unpaid vacation wages, (11) failure to reimburse business expenses, and (12) civil penalties under the private attorneys general act (labor code §§ 2698 et seq.). Abzena denies all claims and maintains it has fully complied with the law.

Abzena’s records reflect you worked <<WorkWeeks>> workweeks during the Class Period of April 25, 2019, through June 26, 2024. Based on this information, your Individual Class Payment is estimated to be <<SettAmt>> (less any applicable state and federal withholdings). The actual amount you may receive will likely be different and will depend on multiple factors, such as how many other individuals decide to opt out.

<u>YOUR OPTIONS</u>	
DO NOTHING	You do not have to do anything in response to this notice. If you do nothing, you will remain eligible to automatically receive an Individual Class Payment if the Court grants final approval of the settlement. In such case, you will be bound by the release provisions in the settlement and release your claims in exchange for compensation.
OPT OUT	You may opt out of the Settlement by submitting a Request for Exclusion form. If you opt out, you may not object to the Settlement, you will not receive an Individual Class Payment, and you shall not be bound by the release provisions in the settlement.
OBJECT	You may object to the Settlement by submitting a written objection. If the Court grants final approval of the settlement despite your objection, you will remain eligible to automatically receive an Individual Class Payment if the Court grants final approval of the settlement. In such case, you will be bound by the release provisions in the settlement.

The Court’s final approval hearing is scheduled to take place on **January 17, 2025 at 9:00 a.m.** in Dept. 73 of the San Diego Superior Court, located at 330 W Broadway, San Diego, CA 92101. You do not have to attend but you do have the right to appear. ***For more information, please carefully read this notice.***

1. WHAT IS THE ACTION ABOUT?

The Class Representatives are former employee of Abzena. The Class Representatives alleged Abzena violated California labor and employment laws as follows: (1) failure to pay all minimum wages, (2) failure to pay all overtime wages, (3) meal period violations, (4) rest period violations, (5) paid sick leave violations, (6) untimely payment of wages, (7) wage statement violations, (8) waiting time penalties, (9) unfair competition, (10) unpaid vacation wages, (11) failure to reimburse business expenses, and (12) civil penalties under the private attorneys general act (labor code §§ 2698 et seq.). Plaintiffs are represented by Ferraro Vega Employment Lawyers (“Class Counsel.”)

Abzena denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT ARE PROPOSED SETTLEMENT TERMS?

At the Final Approval Hearing, the Class Representatives, through Class Counsel, will ask the Court to approve a Gross Settlement Amount of \$803,143.32 and authorize the following deductions: Service Payments (\$20,000), Attorneys’ Fees in the amount of 33.33% of the Gross Settlement (\$267,687.67), Litigation Costs (not to exceed \$15,000), the LWDA’s 75% portion of the PAGA Payment (\$30,000), and the Administration Expenses to be paid to the third-party settlement administrator (estimated at \$15,000).

After making the above deductions in amounts approved by the Court, the Administrator will calculate and distribute making Individual Class Payments to Participating Class Members based on their Class Workweeks. 30% of each Individual Class Payment shall constitute taxable wages (“Wage Portion”) and 70% shall constitute interest and penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Abzena will separately pay employer payroll taxes it owes on the Wage Portion. The Administrator will report the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

You will be treated as a Participating Class Member, participating fully in the settlement, **unless you submit a signed Request for Exclusion by the 20th of January, 2025**, “Response Deadline”.

After the Judgment is final and Abzena has fully funded the settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the settlement, as follows:

All Participating Class Members release Released Parties from any and all claims, damages, and penalties alleged in the Operative Complaint and arising out of the facts in the Operative Complaint during the Class Period, including, without limitation, claims for: (1) failure to pay all minimum wages, (2) failure to pay all overtime wages, (3) meal period violations, (4) rest period violations, (5) paid sick leave violations, (6) untimely payment of wages, (7) wage statement violations, (8) waiting time penalties, (9) unfair competition, (10) unpaid vacation wages, (11) failure to reimburse business expenses, and (12) civil penalties under the private attorneys general act (labor code §§ 2698 et seq.). Participating Class Members **do not** release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts outside of the Operative Complaint or outside the Class Period.

All PAGA Members and the LWDA release Released Parties from, and are forever barred from pursuing such against Released Parties for, the PAGA claims alleged in and/or arising out of the facts alleged in the Operative Complaint during the PAGA Period, including, without limitation penalties predicated on the underlying alleged violations for: (1) failure to pay all minimum wages, (2) failure to pay all overtime wages, (3) meal period violations, (4) rest period violations, (5) paid sick leave violations, (6) untimely payment of wages, (7) wage

statement violations, (8) waiting time penalties, (9) unfair competition, (10) unpaid vacation wages, (11) failure to reimburse business expenses, and (12) civil penalties under the private attorneys general act (Labor Code §§ 2698 et seq.).

3. HOW IS MY INDIVIDUAL CLASS SETTLEMENT CALCULATED?

The number of Class Workweeks you worked during the Class Period are stated on the first page of this Class Notice. The Administrator will calculate your Individual Class Payments by (1) dividing the Net Settlement Amount by the total number of Class Workweeks worked by all Participating Class Members, and then (2) multiplying the result by the number of Class Workweeks worked by each respective Participating Class Member. In other words, you will receive a proportional recovery based on your length of employment in relation to other Class Members.

4. HOW CAN I CORRECT THE NUMBER OF CLASS WORKWEEKS?

You have until the Response Deadline to correct or challenge the number of Class Workweeks. You can submit your challenge by signing and sending a letter to the Administrator via mail or email to the Administrator at the following address:

Del Toro, et al. v. Abzena (San Diego) Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Fax : 949-419-3446
Toll-Free Number : 1-888-714-5040
Email: abzenasdsettlement@cptgroup.com
Website: www.cptgroupcaseinfo.com/AbzenaSDSettlement

The Administrator will accept Abzena's calculation of Class Workweeks as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you.

5. HOW WILL I GET PAID?

The Administrator will send, by U.S. mail, a single check to every Participating Class Member following the Effective Date of this Settlement. Your check will be sent to the same address as this notice. If you change your address, notify the Administrator as soon as possible.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Complete the attached Request for Exclusion form and mail or email it to the Administrator before the Response Deadline.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement by submitting a written objection to the Administrator before the Response Deadline. To object, please provide a written statement to the Administrator advising what you object to, why you object, and any facts that support your objection. Please sign the objection and identify the Action and include your name, current address, telephone number, and your approximate dates of employment.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You may, but are not required to, attend the Final Approval Hearing on **January 17, 2025 at 9:00 a.m.** in Dept. 73 of the San Diego County Superior Court, located at 330 W Broadway, San Diego, CA 92101. At the hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to the LWDA, Class Counsel, the Class Representatives, and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision.

It is possible the Court will reschedule the Final Approval Hearing. Please review the Court's online docket or contact the Administrator or Class Counsel to verify the date and time of the Final Approval Hearing if you believe it may have been continued or otherwise changed.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Abzena and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment, or any other Settlement documents is to go to the Court's website, access the Register of Actions, and search for the case using the case number at the top of this notice. You can also telephone or send an email to Class Counsel at the address below:

Class Counsel
Nicholas J. Ferraro (State Bar No. 306528)
Lauren N. Vega (State Bar No. 306525)
Ferraro Vega Employment Lawyers, Inc.
3333 Camino del Rio South, Suite 300
San Diego, California 92108
(619) 693-7727 telephone
classactions@ferrarovega.com
ferrarovega.com

10. WHAT IF I LOSE MY SETTLEMENT CHECK OR FAIL TO CASH IT?

If you lose or misplace your settlement check, the Administrator will replace it if you request a replacement before the void date on the face of the original check. If your check is already void or you have otherwise failed to cash it, it will be provided to the State of California's Unclaimed Property Division in your name. For more information, please review how to process a claim for your funds with the State of California, https://www.sco.ca.gov/upd_form_claim.html.

PLEASE DO NOT CONTACT THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT